

Remarks:

1. All of examiner's rejections under 35 USC 112 have been address by amendments
2. Applicant obviously disagrees with Examiner's arguments that the cited reference of Field anticipates applicant's invention and that applicant's invention is obvious in view of Field.

The Field invention is stated by Field as being a digit guard illustrated and described as being a covering for a "human finger" not an animal toe-nail sheath as repeatedly stated by examiner. Further, The digit guard covers the entire human fingertip and which may or may not contain a fingernail. The digit guard is a construction (formed, not molded) and only mentions the use of plastic in one embodiment and does not make reference to an internal or external claw shape. There is no mention of how the semi rigid plastic is formed into a finger tip sheath. Note, the plastic sheath can not be folded and sewn to close the ends as described in the other embodiments. Field makes no mention of the sheath having one or more coatings sub-layers or overlay coating of any kind. Field states that "after the sheath is so formed any decretive accoutrements such as sequins, spangles, beads, artificial fingernails etc, may be applied and attached to the exterior surface thereof". This clearly indicates that the artificial fingernail is not an integral part of the sheath, not a critical element in the construction of the product and is clearly a non-essential accessory. Use of such accessories to define applicant's nail cap, which is a one piece molded unit, is clearly a misapplication of the cited reference in a hind site attempt to make the reference fit the limitations of the instant claimed invention.

Examiner has further failed to address the issues raised by applicant regarding the requirement under 35 USC 103 for examiner to point out where the cited reference suggest that the Field finger guard could be adapted for use in some manner for applicant's intended purpose of covering the nail portion of an animal claw as required by the cited court cases. Further, Field makes no suggestion that the finger guard could be used to protect others and objects from harm caused by an animal claw. In fact the Field finger guard is used to protect the finger itself and further add an exposed sharp false finger nail that defeats the purpose of applicant's nail cap. When taken as a whole there is simply no comparison between the cited reference and the instant application.

Examiner's has repeatedly made statements without foundation such as that the Field finger guard could fit the claw of a bear. There is simply nothing in the Field patent that would lead one to think that the digit guard could or should be used for animal claws or that it could be adapted for use on a bear claw. Examiner has no first hand knowledge that this could be done with any expectation of success. Further, examiner makes the assumption that an adhesive must have been used by Field to adhere attachment to the finger guard while admitting that other means of attachment are possible. Examiner then makes the leap to the conclusion that the assumed use of an adhesive by Field in any

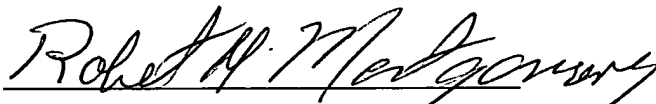
manner equates somehow to an adhesive applied or inserted within the cavity or between coatings of applicant's nail cap and that use of any adhesive anywhere would be obvious.

Applicant in this case has been the sole producer for the animal nail caps in the United States for the last sixteen years and is thus an expert in the art involving animal nail caps. Examiner in this case has demonstrated a lack of understanding of the manufacturing processes involved in producing such products thus leading to several false assumptions. Applicant certainly would look to his own invention, involving animal nail caps, and his own experience in their production and use for inspiration in the art rather than look to human digit guards, which have been used for many years prior to Field, and which are not capable of accomplishing the desired result of sheathing only the claw portion of an animal and not the entire animal toe or paw as taught by Field. Animals obviously have an entirely different foot anatomy than humans which is being ignored by examiner.

Reconsideration of this application is requested.

Should the examiner feel that a telephone conference would advance this application, she is encouraged to contact the undersigned at the telephone number listed below. Please contact the submitter if any fees are due.

Respectfully submitted,



Robert N. Montgomery, Reg. No. 35,291

Date: 13 February 2006

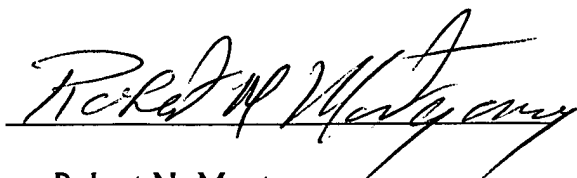
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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal service as First Class Mail in an envelope addressed to: Commissioner of Patents and Trademarks, P.O. Box 1450 Alexandria, VA 22313-1450 on 2/23/06 2006.



Robert N. Montgomery,